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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,507	01/17/2006	Igor Pereverzev	19339-100309	3456

7590 01/23/2009
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EXAMINER

FULTON, KRISTINA ROSE

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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01/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,507	Applicant(s) PEREVERZEV, IGOR	
	Examiner KRISTINA R. FULTON	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed 10/14/08. Claims 1-5 and 7 are pending.

Claim Rejections - 35 USC § 112

1. In view of the amendment submitted 10/14/08, the USC 112 rejection of the previous office action is overcome.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

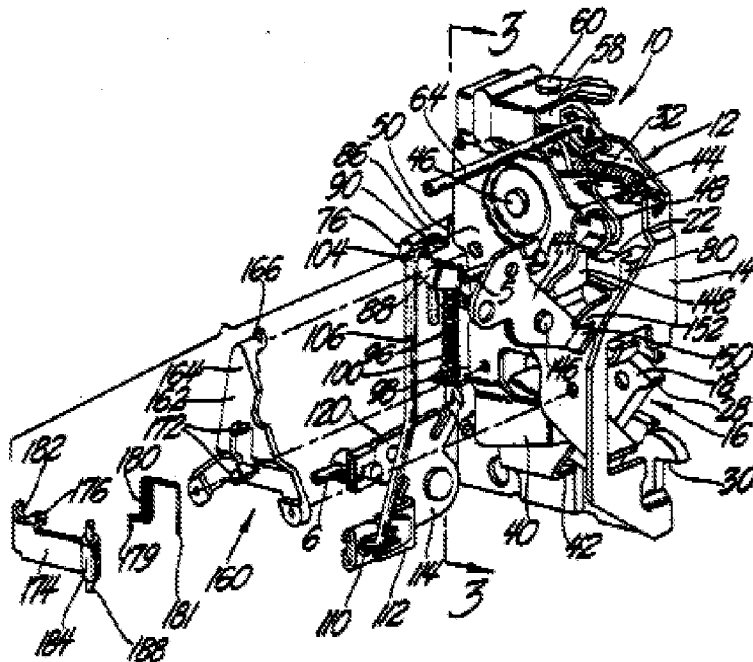
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

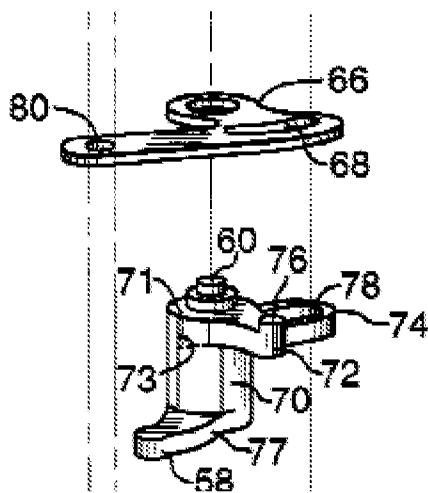
4. Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 5308130) in view of Cetnar (US 5899508).

5. Regarding claim 1, Lee shows a latch mechanism for selectively latching a door to an automotive vehicle, said latch mechanism comprising a latch hook (18) movable between a locked position and an unlocked position, a release lever (76) operatively coupled to said latch hook for selectively moving said latch hook between said locked and unlocked positions; and an inertia lever (174) engageable with said release lever to prevent movement of said latch hook between said locked and unlocked positions, said inertia lever movably supported within said latch mechanism for moving in and out of engagement with said release lever in response to a side impact upon the vehicle (causing a change acceleration/deceleration); wherein said release lever includes a slot presenting sides for engaging a portion of said inertia lever for automatically toggling said inertia lever in response to movement of said release lever to prevent seizing of said inertia lever within the latch mechanism. See the Lee device below.



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6. Regarding claims 1 and 3, Lee shows that the inertia lever (174) blocks the release lever (76) via tab (182). Lee fails to teach that this tab is in a slot of the release lever. Cetnar shows that it is very well known in the vehicle latch art to include a tab and slot engagement. Cetnar shows that tab (76) is received in slot (68). It would have been obvious to one of ordinary skill in the art to include a slot as taught by Cetnar on the release lever of Lee for engagement with tab (182) in order to assure proper alignment of the levers throughout complete motion of the inertia lever relative to the release lever. See the Cetnar device below.



7. Regarding claim 2, Lee shows a means for biasing (180) the inertia lever to a first position out of engagement with said release lever.

8. Regarding claim 7, Lee in view of Cetnar is applied as above to claim 1 where Lee further shows a housing (12 including, 14, 40 and 162) wherein the inertia lever is directly coupled to said housing (column 4, line 63). The release lever is on one side of the housing and the latch hook is on an opposite side.

Allowable Subject Matter

9. Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 4 require the inertia lever to move out of engagement with the slot during side impact which appears novel (including the structure of claims 1-3) over the prior art.

Response to Arguments

10. Applicant's arguments with respect to claims 1 and 7 have been considered but are not persuasive. Regarding the argument that there is no motivation to combine Cetnar with Lee, the examiner respectfully disagrees and points out that Cetnar is used to teach the well known slot/tab engagement as commonly seen on vehicle latches. Lee could be modified to include a slot which engage tab 182. Further, regarding the argument that Lee fails to disclose a lever "to toggle the block out lever to prevent seizing", the examiner respectfully disagrees. The language "to toggle...to prevent" is considered functional language and because the prior art teaches the structure as claimed, the prior art is capable of performing the claimed functional language. Applicant is reminded that terms such as "to" or "for" or "used for" are considered functional and do not positively recite the limitations following such terms. Applicant's arguments regarding claim 4 are persuasive. Claim 4 is now indicated allowable but depends from rejected claim 3.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINA R. FULTON whose telephone number is (571)272-7376. The examiner can normally be reached on M-TH 7-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/
Supervisory Patent Examiner,
Art Unit 3673

/K. R. F./
Examiner, Art Unit 3673
1/16/09